IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

WEDNESDAY, THE SEVENTEENTH DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE SRI DEVINDER GUPTA,THE CHIEF JUSTICE

and
THE HON'BLE MR JUSTICE C.V.RAMULU

WRIT APPEAL NO : 1790 of 2004

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 26/10/2004 in WP NO : 17772 OF 2004 on the file of the High Court.)

Between:

Kande Venkateswarlu, S/o. Seshaiah,
Prop. Sri Kanaka Durga Modern Rice Mills, Matamally Village,
Nalgonda Village.

..... APPELLANT

AND

1 The State Bank of Hyderabad Region-III, Zonal Office, Rep. by its

Authorised Officer, Regional Manager, Kachiguda, Hyderabad.
2 The Chief Manager (Advances) Authorised Official,
State Bank of Hyderabad, Huzurnagar Branch, Huzur Nagar,
Nalgonda District.

.....RESPONDENTS

Counsel for the Appellant:MR.C.YADAGIRI

Counsel for the Respondents.: MR.V.V.SARMA

The Court made the following :

ORAL ORDER: (per the Hon'ble the Chief Justice)

Writ petition was dismissed by learned single Judge on the ground that there is adequate and efficacious remedy available to the appellant and filing of writ petition is not the appropriate remedy. While dismissing the writ petition, costs were also imposed on the petitioner-appellant in deliberately having suppressed the material fact of filing of earlier writ petition No.22169 of 2003.

Learned counsel for the appellant submits that it was not necessary for the appellant to mention the fact of filing of earlier writ petition and its dismissal inasmuch as the relief prayed for in the present writ petition was different than the relief prayed in the earlier writ petition and it was on a fresh cause of action that the present writ petition was filed. He placed reliance on a decision of the Supreme Court in S.J.S.BUSINESS ENTEPRISES (P) LTD vs STAE OF BIHAR [2004 (7) SCC 166].

We have perused the decision referred to above and do not find the same to be relevant in support of the submission made by the learned counsel for the appellant. Relief sought for in the writ petition was to stay the proceedings taken out by the Bank under Section 13(4) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 which action preceded a notice under Section 13(2) of the said Act and to get rid of that notice WP No.22169 of 2003 was filed, which was dismissed in view of the decision of the Supreme Court, with direction that the remedy of the petitioner will be under the Act and filing of writ petition is not the appropriate remedy. Therefore, it was but necessary for the appellant to have made a mention of the earlier writ petition in the

present writ petition. We find no substance in the appeal.

Appeal dismissed.

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DEVINDER GUPTA, CJ

17-11-2004

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C.V.RAMULU, J

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To

1 The Authorised Officer, The State Bank of Hyderabad Region-III,

Zonal Office, Regional Manager, Kachiguda, Hyderabad.

2 The Chief Manager (Advances) Authorised Official,
State Bank of Hyderabad, Huzurnagar Branch, Huzur Nagar,
Nalgonda District.

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